

Order

Michigan Supreme Court
Lansing, Michigan

March 31, 2006

130245 & (41)

PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff-Appellant,
Cross-Appellee,

v

RANDY R. SMITH,
Defendant-Appellee,
Cross-Appellant.

Clifford W. Taylor,
Chief Justice

Michael F. Cavanagh
Elizabeth A. Weaver
Marilyn Kelly
Maura D. Corrigan
Robert P. Young, Jr.
Stephen J. Markman,
Justices

SC: 130245
COA: 256066
Oakland CC: 2003-193910-FC

On order of the Court, the application for leave to appeal the December 22, 2005 judgment of the Court of Appeals and the application for leave to appeal as cross-appellant are considered. We direct the Clerk to schedule oral argument on whether to grant the application or take other peremptory action. MCR 7.302(G)(1). The parties are directed to file supplemental briefs within 56 days of the date of this order addressing: (1) whether statutory involuntary manslaughter, MCL 750.329, is a necessarily included lesser offense of murder; and, if so (2) whether a rational view of the evidence in this case supports a conviction of statutory involuntary manslaughter; and, if so (3) whether the Oakland Circuit Court's failure to give a jury instruction on statutory involuntary manslaughter was harmless error. The application for leave to appeal as cross-appellant remains pending.

The Prosecuting Attorneys Association of Michigan and the Criminal Defense Association of Michigan are invited to file briefs amicus curiae on Issue (1) set forth above.

CAVANAGH, J., would deny leave to appeal.



s0328

I, Corbin R. Davis, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

March 31, 2006

Corbin R. Davis

Clerk